THE COURTS.

THE PROPOSED PARADE GROUND.

The Grand Jury on Harbor Obstructions and Street Encumbrances.

Express Companies Not Liable to Tax on Gross Receipts—Important Decision.

BUSINESS IN THE OTHER COURTS.

The Grand Jury, in the Court of General Sessions, closed their labors yesterday. Before their discharge they made an important presentment to the Court, in which they reviewed the subject of the harbor obstruction arising from the discharge of river silt excavated from the docks, and of coal cinders and ashes from steam vessels on the waters of the bay and rivers adjacent to the city, the discharge of liquid refuse from gas works into the sewers under the streets leading to the rivers, &c.; and submitting that, in their opinion, the law was violated thereby, and requesting the attention of the Mayor and the Departments of Public Works, Docks, Health and Buildings to the same, so that measures may be adopted to remedy the evils arising therefrom.

In to-day's law reports will be found that of a suit against the city in which not only the verdict was recorded against the city, but a severe censure passed upon the Comptroller. The jury, in its verdict, says "that the Comptroller was guilty of negligence amounting to bad faith," this alleged bad faith having reference to the retention of papers necessary for levying the assessment for the grading and regulating of a portion of Seventy-ninth street.

THE MILITARY PARADE GROUND.

That Backing Down Resolution of the Park Commissioners—The Commissioners of Awards and Assessments Asking the Court Their Duty in the Premises—Feeling Among Property Holders.

The Legislature of 1871, pursuant to the urgent entreaties of the leading officers of the First division New York National Guard and others interested in the matter, passed an act providing for the laying out of a military parade ground in the upper part of the city. To the Department of Public Parks and the Major General commanding the First division National Guard was given the selection of the ground. This they did, selecting the locality between Kingsbridge road and the Harlem River, the plot thus selected comprising eighty-two acres. Judge Brady appointed Messrs. William C. Traphagen, William Seaver and John McClave Commissioners of Estimate and Assessment. Shortly following the appointment of the above commissioners, the Park Commissioners on second thought concluded, inasmuch as the ground selected was so far out of town, so remote from the armories and a matter involving such outlay and increase of the city debt, to stop any further proceedings on their part, and having obtained an opinion from the Corporation Counsel that they could do so, passed a resolution accordingly and let the matter drop. With this the property holders in the vicinity were dissatisfied, and an application was made by the Commissioners of Estimate and Assessment, backed by these discontented property holders, to Judge Lawrence in Supreme Court, Chambers, for instructions as to their duties in the premises. Judge Lawrence directed an order to show cause to be served on the Corporation Counsel, and in obedience to this order the matter was argued yesterday in Supreme Court Chambers. On the part of the interested property holders, of whom large numbers were present, there was a large retinue of counsel, including ex-Judge Davies, John P. Shaw and Granville P. Haws, while fighting the battle against them, there appeared single handed Mr. George P. Andrews, Assistant Counsel to the Corporation. Additional interest attaches to the case from the fact that not only Mayor Havemeyer is opposed to the scheme, but from a bill already having been presented to the Legislature to knock the whole project in the head.

ARGUMENT FOR THE PROJECT.

Ex-Judge Davies opened the argument. He said that the Commissioners were officers of the Court through their appointment by the Court, and could come to the Court for instructions in regard to their duties. He insisted further that the Court had made an order requiring them to ascertain the value of the land required for the parade ground, and that while discharging their duties they had been served with the resolution of the Commission of Public Parks, requiring them to cease, on the ground that the Park Commissioners had discontinued the proceeding. He contended that the Commissioners had no authority to discontinue the proceeding; that it was not a proceeding similar to those authorized by legislative enactment relative to the opening and widening of streets and ascertaining the value of lands for public squares as laid down on the map of the Commissioners and made under the act of April, 1807; that the act of 1871 creating a special board for laying out the public parade ground was mandatory, and that after the ground had been laid out and the map filed the land embraced in the parade ground was condemned to the public use and could not thereafter be used for any purpose by the owners; that, therefore, it was imperative that this proceeding should progress with all possible rapidity with a view to ascertain the value of the land so condemned; that the Commissioners of the Public Parks, by virtue of the acts conferring authority in reference to this parade ground, had only conferred on them the authority to take the necessary proceedings to acquire the title to the property; that they had taken these proceedings in applying to the Court for the appointment of commissioners; that commissioners having, on their application, been appointed, their powers were exhausted, and that no act of the Legislature conferred upon them any power to interfere with the duties of the commissioners or to discontinue their proceedings in the case.

BACKING UP OF THE PARK COMMISSIONERS.

Mr. Andrews, in reply, urged as his first point of objection that by law the present application could only be made through the Corporation Counsel. His second point was that the law required that notice should be given by publication in the newspapers and the posting of handbills for fourteen days, which had not been done. His third point was that the application was unprecedented, and without authority of law. He then went on to say that a receiver appointed by the Court was required, as an officer of the Court, to obtain instructions as to his duty, but insisted the commissioners in street openings are not officers of the Court, and had no right to call upon the Court for instructions. The law required them to apply to the Corporation Counsel and not to the Court. His next point was that the Court would not attempt to instruct the commissioners, inasmuch as it could make no order in the matter which would be binding on any one. The Court, if it saw fit, could express its opinions upon the questions of law involved. There was no occasion, however, for the Court to interfere. If, as claimed, the resolution discontinuing the proceeding was null and void, the Commissioners had only to proceed under the order appointing them. When the report was presented for confirmation then only could the question arise as to whether the Department of Parks had the right to pass the resolution discontinuing the proceedings. He urged that the Department of Public Parks had a right to discontinue the proceeding under the statute providing that similar proceedings shall be taken in all respects in regard to the acquiring of title to the public parade ground as is authorized to be taken by section 6, chapter 697 Laws of 1867. He then quoted section 7, chapter 209 of the Laws of 1839, providing that the Mayor, Aldermen and Commonalty shall be authorized at any time prior to the confirmation of the report by the Court to discontinue all further proceedings relative to such matter without the necessity of applying to the Court for permission to do so. It was clear, he urged, that under these several laws all the laws relating to street opening proceedings now in force apply to proceedings to acquire title to land for this parade ground. As to the discontinuance of such proceedings the statutes made it clear that the Department of Parks had the same power in this regard as the Mayor, Aldermen and Commonalty of the city. He insisted that there was no validity in the objection that the Major General of the First division must concur with the Department of Parks. The latter had the same power to discontine as it had to institute the proceedings. In conclusion, he contended that the objection that the discontinuance was a hardship upon those owning property adjacent to the parade ground was not a question for the Court to consider.

Some further argument ensued, when Judge Lawrence took the papers.

IMPORTANT GRAND JURY PRESENTMENT.

Harbor Obstructions and Street Encumbrances—Hints for the Commissioners of Docks, Works, Health and Buildings.

The Grand Jury of the General Sessions ended its labors yesterday and made the following presentment:—

GRAND JURY ROOM, Jan. 30, 1874.

The Grand Inquest in and for the city and county of New York, having entertained and considered the several subjects of the discharge of the river silt excavated from the docks, and of coal cinders and ashes from steam vessels in the waters of the bay and rivers adjacent to this city; the discharge of liquid refuse from gas works into the sewers under the streets leading into the rivers; the encumbering of streets and sidewalks, and the erection of sheds and enclosed buildings upon the bulkheads and piers upon the river fronts, respectfully submit that in the discharge of the silt excavated from the docks and of coal cinders from the steam vessels into the bay and rivers, that the depth of their basin is decreased thereby, and that, as a consequence, their tidal and fluvial volumes are impaired; that the light portion of the silt and the ashes discharged in this manner are borne away by the currents and are gradually deposited in the quiescent portions of the waters, as upon shoals and shores, whereby both the tidal area and volume are lessened; and, as the result of this reduction of their volume, their erosive action in maintaining the required depth of water over the bar at Sandy Hook is gradually lessened; that in the discharge of the liquid refuse from the gas works into the sewers of the streets, and from thence flowing into the docks between the piers, noxious vapors are exhaled therefrom, permeating dwellings, to the detriment of the health of our citizens, and discoloring vessels, buildings and merchandise subjected thereto; that, while we fully accord to the imperative requirements of commerce great privileges and necessities in the accommodation of merchandise in transit, yet the continuous encumbrance of the streets and sidewalks and the construction of inflammable sheds and enclosed buildings upon the piers is wholly at variance with the requirements of our citizens in the transportation of merchandise and facility of transit, and in security against fire to the vessels moored to the piers, and to the buildings and property upon the river streets.

Entertaining these views, we present the several matters referred to as violations of the law and propriety, as nuisances demanding abatement, and that they are severally pregnant with injury to the commercial interests of this city, inductive to disease and discomfort to our citizens, the cause of an unnecessary destruction to their property, and involving the loss of vessels, goods and stores by fire; and we further submit to His Honor the Mayor and the Departments of Public Works, Docks, Health and Buildings their consideration of these matters. CHAS. H. HASWELL, Foreman.

THOS. WOODWARD, Secretary.

CONTINUATION OF LEXINGTON AVENUE.

An Effort to Get the Report of the Commissioners Confirmed—Interposing Technical Objections.

The work of getting through to successful completion the proposed extension of Lexington avenue from 102d street to Harlem River seems to be hedged about with interminable difficulties. While property owners affected by the improvement and those living in the vicinity are anxious to have the project accomplished, everything in the way of technical objections seems to be thrown in the way. The question of confirming the report of the Commissioners of Awards and Assessments in regard to the opening of Lexington avenue above 102d street came up for consideration yesterday in Supreme Court, Chambers, before Judge Lawrence.

Mr. Andrews, Assistant Corporation Counsel, called the attention of the Court to the fact that the act under which the commissioners were appointed required a publication of the notice in one or more papers selected for Corporation advertising. He objected that in this case, though the notice was published in one or more of the city papers, it was not published in an official organ, none such at that time having been designated. He insisted that this objection might hereafter be considered as a fatal irregularity, depriving the commissioners of jurisdiction and leaving the assessments liable to be vacated hereafter by the courts. If the Court, however, should be of opinion that the irregularity suggested was without vitality to impair the legality of the acts of the commissioners, he was prepared to make the formal motion for the confirmation of their report.

Various counsel, representing various property owners to whom awards had been made, urged the adoption of their report. Nearly all pursued the same line of argument. To the objection made by Mr. Andrews they based their opposition on the fact that, in numerous cases since the passage of the act of 1872 to vacate assessments imposed on the property of their clients, in which the question of irregularity in advertising had been raised, that point had been overruled uniformly by the courts, they holding that all such irregularities were caused by the provisions of the act.

At the conclusion of the argument Judge Lawrence took the papers, reserving his decision.

DODD'S EXPRESS COMPANY.

Express Companies Not Liable to Tax on Their Gross Receipts—Important Decision.

In the United States Circuit Court yesterday, before Judge Nathaniel Shipman, an action of a somewhat important character was tried. Alexander Spalding, Collector of the Eighth Internal Revenue district, caused a duty of three per cent on the gross receipts of Dodd's Express Company to be levied. He claimed that his action in this respect was sustained by section 104 of the Act of 1864. This law is to the effect that all persons doing express business are bound to pay a tax of three per cent on the gross receipts of such business. The company paid the amount claimed under protest and then brought the present suit to recover back the sum thus paid. Counsel for the express company contended that the business they transacted was merely of

A LOCAL CHARACTER,

consisting of carrying boxes and parcels around the city; that, under the terms of the law, they could not be regarded as an express company, and that therefore the government could not legally demand the tax from them. The Judge stated that his opinion was that the act had reference only to large express companies. The United States District Attorney advanced the proposition that the act applied to all who did any business as express companies. The amount claimed in this case is but $200. Judge Shipman directed a verdict for the express company. The matter thus disposed of was a test case, but other suits in relation to the same point involve an amount of about $40,000. The question had been under the consideration of the Secretary of the Treasury and the Commissioner of Internal Revenue, and the conclusion they arrived at was that it was not within the power of the Collector to exact the tax, but pending the result of this suit they had declined making any final decision.

BUSINESS IN THE OTHER COURTS.

UNITED STATES CIRCUIT COURT.

Judge Benedict sat yesterday at No. 27 Chambers street, and proceeded to sentence the prisoners who had been convicted during the recent term of the Court.

Charge of Perjury.

Mr. Purdy, United States Assistant District Attorney, moved for sentence upon Oscar F. Wainwright, who had been convicted of perjury.

Mr. Charles Wehle asked that sentence be postponed, as he understood the prisoner had made some disclosures, and would make some more. He believed that the prisoner was a victim, rather than a victimizer. He would ask a postponement until Mr. Rowan, who had defended the prisoner, could be heard.

Mr. Purdy stated that the prisoner had had ample opportunity to prepare for his trial. He now, in his extremity, proposed to explain this matter, and give them an opportunity to come at men who, as he said, were more guilty than himself. Whatever statement the prisoner might make was open to suspicion, he having been convicted of perjury. As he (Mr. Purdy) understood, the prisoner could not be corroborated to any great extent, though he said he could reach the man who hired him to put his name on a false bond. But after putting the government to the expense of a trial the prisoner could not be allowed to go at liberty because he pointed to a man who was not more guilty than himself. He (Mr. Purdy) was satisfied that the verdict was correct.

Mr. Wehle asked a postponement of this matter on the ground of surprise, because he had been informed that Mr. Purdy had said that he did not believe the prisoner was guilty.

Judge Benedict—I am satisfied with the verdict, and I have no doubt of the prisoner's guilt. I make this remark in an emphatic way because it is too much the custom to make those statements after verdicts of juries have established the guilt of prisoners.

Mr. Wehle begged to withdraw the remark he had made; he did not make it of his own knowledge. He had not been personally engaged in the case, and it might be that the disclosures which the prisoner had made were or were not satisfactory. Mr. Rowan, who had been engaged in the case, was not now present. Without saying anything of the justice or injustice of the case he did not think that sentence should be pressed for now.

Judge Benedict—That is a question for the District Attorney.

Mr. Wehle asked, as a matter of professional favor, that the matter be postponed until it could be looked into.

Mr. Purdy, in reply, said he would accede to this appeal and move for sentence on the 7th of February.

Sending an Obscene Article Through the Mails.

Louis Zellner, who had been convicted of sending an obscene article through the mails, was sentenced to one year's imprisonment.

Breaking Into a Post Office.

Daniel O'Brien, a boy about eighteen years of age, who stated, in reply to the Court, that he was born in Rockland county, and who had pleaded guilty of breaking into the Post Office of Piermont and destroying letters therein, was sentenced to three years' imprisonment and to pay a fine of $1, sentence to be executed in Kings County Penitentiary. This was the second time the prisoner had been sentenced by Judge Benedict for violating the law.

James Kelly, who had also pleaded guilty of having taken part in the offence committed by O'Brien, and who, in reply to the Judge, said "he had no particular place to live in," was sentenced to three years' imprisonment and to pay a fine of $1, sentence to be carried into effect in Kings County Penitentiary.

Opening and Destroying Letters.

Thomas Maguire, a letter carrier, in the employment of the Post Office, who had pleaded guilty of opening and destroying letters entrusted to him to deliver, was next called up for sentence. It appeared that when the prisoner committed the offence he was in a bad state of intoxication, and tore the letters open in a very public manner in a liquor saloon. He was sentenced to six months' imprisonment and to pay a fine of $1.

Smuggling Cigars.

Edward Butler and William Gallagher, who had pleaded guilty of smuggling a small quantity of cigars, were separately sentenced. Addressing Butler, the Judge said that offences of this kind were sometimes settled by a money compromise, and the effect of this was to screen men guilty of greater offences than those who now stood before him for sentence. But he must inflict some punishment on the prisoners for engaging in illicit importation, even though it was small, and he hoped it was the last time they would be found engaging in such an operation. They were each sentenced to thirty days' imprisonment.

Counterfeiting.

John Moorehead, convicted of counterfeiting, was next brought forward. The Judge told him that this was not his first offence. He had been previously convicted, but was pardoned. "From all that I have been able to ascertain about you," said the Judge, "I think the proper course would be to inflict upon you a severe punishment. You must be imprisoned seven years at hard labor and pay a fine of $1."

The prisoner, when he heard the sentence, made some exclamations and attempted to hand a parcel of papers to the Judge. He laid hold of the rail in front of the bench, and it was with difficulty that two of the officers could pull him away, which they finally succeeded in doing.

The Case of George B. Davis—Ex-Collector Joshua R. Bailey—Motion to Expunge the Record of Davis' Conviction.

Mr. Samuel Hirsch, holding a bundle of affidavits in his hand, proceeded to make a motion that the record of the conviction of George B. Davis in this Court, in July, 1869, for perjury, be expunged, on the ground that Davis, after having served out a portion of his sentence, had been pardoned by the President. This pardon, as counsel claimed, restored Davis to all his rights as a citizen, and wiped out the effect of his conviction. It now appeared that all that George B. Davis had said respecting ex-Collector Joshua R. Bailey was true. If Davis had been convicted by a witness of reliability let that witness come forward; let Joshua R. Bailey, who was now

A FUGITIVE FROM JUSTICE,

come back and face the music.

Judge Benedict (emphatically)—There must be a limit to this. I do not feel bound to sit here to listen to an argument upon affidavit for the purpose of showing that after six or seven years the record of this conviction should be expunged.

Mr. Hirsch—It is only five years. The indictment was found on the 30th of November, 1868, and Davis was convicted in July, 1869.

Judge Benedict—I do not want to sit here and listen to an argument upon affidavit to show that I should try to retry a man who has been sentenced and has undergone a part of his sentence. I must repeat in this case, as I have just done in another, that I do not desire to hear counsel state that there is no doubt of the man's innocence at all when he has been fairly tried and five years have elapsed since he was convicted. The fact that the Executive, after the conviction of a man, pardons him, is no evidence at all upon the subject of his guilt or innocence. I do not question the right of the executive to exercise that power, whether a man be guilty or innocent. I have some recollection of this case, and it is useless to take up my time for the purpose of interfering with the record after so long a time has elapsed.

Mr. Hirsch replied that Mr. Samuel G. Courtney and Mr. Pierrepont would attend before Court in this matter on citation, if it were necessary for them to appear. He (Mr. Hirsch) would show the conviction of three of the witnesses who had been procured to swear away the liberty of George B. Davis.

Judge Benedict denied the motion.

SUPREME COURT—GENERAL TERM.

Winding Up the Business of the Term.

By Judges Davis, Daniels, Donohue and Barrett.

There was a protracted session of this Court yesterday, the object being the winding up the business of the term. During the month an unprecedented number of cases has been argued, and what is more the decisions have been rendered with unprecedented promptness—a result that cannot fail to give to the judges now constituting this Court increasing popularity with the members of the Bar. Among the last cases argued was that of Joab Lawrence, whom the Governor of Michigan has for some time been trying to get back to that State to answer a charge of alleged conspiracy. This case has been so frequently before the Courts, in Supreme Court Chambers, in the Court of Oyer and Terminer and United States District Court on habeas corpus proceedings, that the facts are already familiar to the public. The argument between Mr. Willard Bartlett, on behalf of Mr. Lawrence, and District Attorney Phelps was lengthy and able on both sides, but resulted, as will be seen in the decisions given below, in a dismissal of the suit. It was after four o'clock when the Court adjourned, which was till the second Monday of February.

Batch of Decisions.

The following decisions, all being of cases which have been argued during the present month, were rendered by the Court:—

Cornelius Burling vs. Margaret King.—Motion denied, with $10 costs. Opinion by Judge Davis.

James Coogan vs. The Mayor; Michael Dolan vs. The Same; John Brennan vs. The Same.—Motions denied, without costs. Opinion by Judge Davis.

Thomas Holloway vs. Benjamin F. Stephens.—Motion denied, with $10 costs. Opinion by Judge Daniels.

Edwin R. Brink vs. Republic Fire Insurance Company; Same vs. Hanover Fire Insurance Company; Same vs. Germania Fire Insurance Company; Same vs. Magam Insurance Company.—Order reversed, and order of reference vacated on plaintiff's stipulating that the evidence of witnesses now absent from the State taken before the referree be read on the trial at Circuit. Opinion by Judge Daniels, Judge Barrett dissenting.

Charles A. Whitmore vs. Burhans Van Steenburgh.—Order appealed from reversed, with $10 costs, and motion to vacate arrest denied, with $10 costs. Opinion by Judge Barrett.

Mary Delany vs. Martin Delany.—Order affirmed, with $10 costs. Opinion by Judge Davis.

David H. Wallace et al. vs. The American Linen Thread Company.—Order reversed, with $10 costs, and commission granted.

Elizabeth Brinkley vs. Hugh L. Brinkley.—Order affirmed, with $10 costs. Opinion by Judge Barrett.

In re John J. Astor.—Order affirmed, with $10 costs. Opinion by Judge Davis.

Charles A. G. Depew vs. Cynthia B. Dewey.—Order reversed. Opinion by Judge Daniels.

Trenor W. Park vs. Thomas B. Musgrave.—Order reversed, with $10 costs of appeal, and a motion to continue injunction denied, with $10 costs. Opinion by Judge Barrett.

Amos S. Rogers, assignee, vs. George Schmersal et al.—Order reversed, with $10 costs, and motion denied with $10 costs.

The People vs. Frank R. Sherwin.—Order affirmed. Opinion by Judge Donohue.

Henry Berzold vs. Charles Puchta.—Order affirmed, with $10 costs. Opinion by Judge Daniels.

David B. Richards vs. Orange Judd.—Order affirmed, with $10 costs. Opinion by Judge Davis.

Edward S. Innes vs. Margaret Purcell.—Order denying motion to remove referee denied, with $10 costs. Order allowing referee $100 for his fees reversed, with $10 costs. Opinion by Judge Daniels.

Same vs. Same (five cases).—Orders affirmed.

Maria Pauline von Rhade vs. Adolph von Rhade.—Order appealed from modified and affirmed as modified. Opinion by Judge Daniels, Judge Donohue dissenting.

Alvah Miller vs. Charles S. P. Bowles; Nathan Appleton vs. Same.—Orders affirmed. Opinion by Judge Donohue.

Elisha D. Whitney vs. Richard Pemston. Order affirmed. Opinion by Judge Daniels.

Betsy Mitchell vs. Martin J. Bunn.—Order reversed and order to be entered in conformity to opinion. Opinion by Judge Daniels.

Samuel S. Tredwell vs. Ralph M. Pomeroy; Same vs. Same.—Appeals dismissed, with $10 costs. Opinion by Judge Davis.

Walter W. Price vs. Juliet Price and Constance B. Price.—Order appealed from affirmed, with $10 costs. Opinion by Judge Daniels.

The Bowery National Bank vs. The Mayor, &c.—Judgment reversed and new trial granted, costs to abide event. Opinion by Judge Davis.

John J. Davenport vs. The Mayor, &c.—Judgment affirmed. Opinion by Judge Donohue.

Dennis Hogan vs. The People.—Conviction affirmed and proceedings remitted for sentence. Opinion by Judge Donohue.

Richard E. Mount, Executor, vs. Nathan D. Ellingwood.—Judgment affirmed. Opinion by Judge Davis.

The People ex rel. Margaret J. Leary vs. Thaddeus H. Lane, Justice, &c.—Proceedings reversed, with costs. Opinion by Judge Donohue.

C. Bainbridge Smith, Executor, vs. Winchester Britton.—Judgment affirmed. Opinion by Judge Davis.

Milton A. Goodenough vs. William H. Spencer.—Judgment affirmed, with costs. Opinion by Judge Daniels.

The People ex rel. ...ran Ann Splain vs. The New York Asylum.—Proceedings affirmed. Opinion by Judge Daniels.

David Banks et al. vs. Charlotte A. Banks, &c.—Order modified so as to direct the amount to be paid to the widow according to the statute. Opinion by Judge Daniels.

The People ex rel. Silas T. Tuttle vs. William T. Walton.—Proceedings affirmed. Opinion by Judge Daniels.

Henry Alker, Public Administrator, vs. Moritz Salomon.—Order affirmed, with $10 costs.

James P. Decher and Lorin Ingersoll.—Order affirmed, with costs, with leave to defendant to answer in twenty days on payment of costs.

Joseph W. Savage vs. Josephine Allen.—Order reversed, without costs.

The People ex rel. Joab Lawrence vs. John R. Brady, Justice, &c.—Proceedings affirmed and writ dismissed.

Newly Fledged Lawyers.

The following gentlemen having successfully passed their examinations to the Bar, were yesterday duly sworn in as attorneys:—Messrs. William C. Dorney, George Tompkins, James B. Roe, Edward J. Cramer, Hermann Stiefel, Emmett R. Olcott, Walter H. Coleman, George C. Zabriskey, Charles N. Harris, George L. River and Walter R. Conway.

SUPREME COURT—CIRCUIT—PART 2.

Verdict of Censure Against Comptroller Green.

Before Judge Barrett.

In yesterday's HERALD was given the particulars of a suit brought by Charles Devlin against the city, to recover some $32,000 on a contract for grading and regulating Seventy-ninth street, between Ninth and Tenth avenues. The Comptroller refused to pay the amount of the claim, unless Mr. Devlin would consent to the reduction of $5,000, the amount for which he was surety on the bond of the previous contractor, who abandoned the job. The jury found that the plaintiff was liable on his bond of $5,000 because of the abandonment of the contract by the former contractor, and that "the Comptroller was guilty of negligence amounting to bad faith in retaining the papers necessary for the levy of the assessment," and that the whole sum became due. The verdict was rendered for plaintiff for $28,252 88, including interest, the $5,000 on the bond of the plaintiff being deducted. An allowance of $500 was also granted, adding this additional sum to the costs of the litigation.

SUPREME COURT—CHAMBERS.

Decisions.

By Judge Lawrence.

Bodner vs. Bodner, Schloeninger vs. Schloeninger.—Reports confirmed and judgments of divorce granted.

Wood vs. Saul.—Judgment granted.

In the matter, &c., Freeman De Long vs. Dittenhoffer, Eagan vs. Walsh, Schenck, &c., vs. Ingraham.—Memorandums.

Chumero vs. Lee, &c.—Receiver appointed.

In the matter, &c., Young; in the matter, &c., New Amsterday Insurance Company, Krikara vs. Suchy.—Orders granted.

By Judge Brady.

Bartlett vs. McNeill.—Granted.

In the matter, &c., Maller.—Memorandum.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

By Chief Justice Monell.

Eisner vs. Misham, Talcott vs. Belding, Gurley vs. Lewis.—Orders granted.

Strits vs. Loch et al.—Motion for reference and receiver granted.

Moses vs. Waterbury Button Company.—Motion granted, &c. See opinion.

MARINE COURT—CHAMBERS.

Decisions.

By Judge Joachimsen.

Underhill vs. Merchants' Life Insurance Company, Rommel vs. World Mutual Life Insurance Company, Hawkins vs. Breen.—Motions denied.

Lowenbein vs. Howe, Whitney vs. Oberndorff, Richardson vs. Bussing.—Motions denied.

COURT OF GENERAL SESSIONS.

Burglaries and Larcenies—Close of the Term.

Before Judge Sutherland.

In this Court yesterday Joseph Hopkins, alias Charles Melville, was tried and found guilty of grand larceny. The evidence for the prosecution was that on the 2d of September he, in company with another man, went into the rubber store of Hodgman & Co., No. 27 Maiden lane, and while a clerk was showing him goods Hopkins stole $100 in bills from the drawer of the desk. The testimony was circumstantial, but conclusive, especially in the absence of any evidence for the accused.

Mr. Kintzing defended Hopkins, and availed himself of every legal technical objection which his experience and skill suggested.

District Attorney Rollins informed His Honor that the accused, although very youthful looking, had been convicted in 1872 of a similar offence and sent to the State Prison, but for some reason or other he was pardoned.

The City Judge sentenced Hopkins to the State Prison for four years and six months.

Mary Jane Sutherland, alias Annie Sinclair, pleaded guilty to grand larceny in stealing, on the 21st inst., wearing apparel valued at $304, belonging to Georgiana E. Matthews. This prisoner has recently been discharged from the Penitentiary. The Judge sent her to the State Prison for four years.

John J. Blair, the youthful Harlem burglar, who pleaded guilty on Thursday to burglary in the third degree, was sent to the State Prison for four years.

William Murray, who, on the 15th of January, stole four dollars from the overcoat pocket of Charles Roege, pleaded guilty to petty larceny from the person.

William Reynolds, who, on the evening of the 12th inst., was discovered in the house of Patrick Maher, No. 228 West Thirty-sixth street, with intent to commit a larceny, pleaded guilty.

These prisoners were each sent to the State Prison for two years and six months.

Bernard Doran, a boy, pleaded guilty to stealing sixty cents from the overcoat pocket of William C. Long, on the 8th of this month. He was sent to the House of Refuge.

Henry Harris, colored, indicted for burglariously entering the house of Charles Corn, No. 489 Canal street, on the 14th of January, and stealing twenty caps, pleaded guilty to burglary in the third degree. His Honor sent him to the State Prison for three years.

Carrie Lee, charged with stealing a pocketbook containing $29 from John Rouse, pleaded guilty to petty larceny. She was sent to the Penitentiary for six months.

Abraham Franklin, who was indicted for stealing $90 worth of household property on the 27th of October from Isaac Franklin, his father, who interceded for his erring son. He persisted in saying that the youth would not steal from anybody else, and that he was only sixteen years old. This statement caused considerable merriment in Court, from the fact that the boy himself was equally sure that he was nineteen years of age, and his appearance indicated that he could pass for twenty-one. His Honor sent Franklin to the Penitentiary for one year.

Larceny of a Horse and Wagon.

Peter Gillespie was convicted of stealing a horse and wagon, on the 15th inst., worth $350, the property of Matthew Cairns, who left the horse standing in Baxter street. The boy was caught in Broadway by an officer. As it was shown the accused was under the influence of liquor, the jury recommended him to mercy. He was sent to the State Prison for eighteen months.

An Acquittal.

Anthony Pratt was tried upon a charge of stabbing Marcelo in the throat and legs with a pocket knife, on the 18th of December. The evidence showed that the parties were Spaniards, and rival venders of Yankee notions on board Spanish vessels, and that on the day in question they quarrelled. The statements of the complainant and the accused were at utter variance with each other. Pratt claimed that he used the knife in self-defence, which resulted in a verdict of not guilty.

The Tompkins Park Rioters Indicted.

The Grand Jury found a bill for riot and assault and battery growing out of the Tompkins square riot against Charles Dress, Adolph Refler, John Muller, George Dierberger, John Englehard, Justus Schwab, Herman Lizaeheski and John Gutchie. Shortly before the Court adjourned Justus Schwab was bailed in the sum of $1,000.

The petty jury were discharged for the term.

HARLEM POLICE COURT.

The Twenty-first Arraignment of a Female Rounder.

Margaret Leddy, aged thirty, well known to the residents of Harlem as a chronic vagrant, was yesterday arraigned before Justice Murray at this Court, charged with stealing a watch, the property of George Buell, of No. 422 East 118th street. The complainant is a starter in the employ of the Second Avenue Railroad Company, and the timepiece was stolen from him while sleeping in a chair at the 127th street depot. The watch was found on the person of the accused when arrested by Officer Dennis, of the Twelfth precinct. She was committed for trial in default of $500 bail.

The officers of the Court affirm that the present makes the twenty-first arraignment of Margaret before that tribunal on charges varying from intoxication to larceny from the person. She was frequently committed to the Island by Justice McQuade for terms of ten, thirty and sixty days, but, in a number of instances, mysteriously reappeared at her old haunts before the expiration of the sentence imposed. An inquiry into these repeated evasions of punishment was made, but it resulted in no satisfactory explanation of the mystery.

JEFFERSON MARKET POLICE COURT.

An Editor in Trouble.

Before Justice Kilbreth.

James McDermott, the editor of the Brooklyn *Sunday Express*, was arraigned yesterday on a charge of shooting John McDonagh, the proprietor of the liquor saloon No. 392 Bowery. The testimony in the case stated that McDermott drew his revolver to protect himself from the assault of a man named Patrick R. Byrnes, and McDonagh sprung between the parties and was shot accidentally. It is alleged that Mr. McDermott's wife has been instituting divorce proceedings against her husband and that Byrnes was employed as a private detective to "work up evidence." Meeting on Wednesday night in the saloon mentioned the parties had some hot words, which finally ended in blows and the accidental shooting of an innocent party. Mr. McDonagh, who was shot, is an old and heavy man and has been suffering from paralysis for some time. He became bail for McDermott and was at once accepted.

ESSEX MARKET POLICE COURT.

A Fatal Game of Marbles.

Before Justice Flammer.

Patrick Murphy and Patrick Brady, two desperate looking young gentlemen of about ten years of age, were arraigned and committed in default of $1,000 bail on a charge of stabbing Robert Hand in the back while playing a game of marbles. The boy Hand is in Bellevue Hospital under treatment, and his assailants were committed to await the result of his injuries.

In Search of a Truck.

Nicholas Meyer was put under $1,000 bail for stealing a truck worth $100 from Charles Hecker, of No. 151 Ludlow street. The truck was left outside a stable owned by Hecker, and, when the daylight came, it was gone. Meyer, of course, denies all knowledge of being concerned in the theft.

BROOKLYN COURTS.

SUPREME COURT—SPECIAL TERM.

Yesterday's Decisions.

By Judge Tappen.

Daniel Lord, Jr., vs. Sterne et al.—Motion denied, with $10 costs to abide events.

The People, &c., vs. Kaiser.—Writ of habeas corpus quashed and prisoner remanded.

William B. Lawrence vs. Oswald Carman.—Motion granted, with $10 costs.

George H. Roberts vs. Angeline Decker.—Motion to open default and restore appeal to General Term calendar denied, with $10 costs.

The People ex rel. McGarrity vs. the Supervisors of Westchester County.—Motion for mandamus denied, with $10 costs.

By Judge Pratt.

Mohrman vs. Booth—Five cases.—Motion for commissions denied, with $10 costs.

CITY COURT—SPECIAL TERM.

Yesterday's Decisions.

By Judge Neilson.

Reinhardt vs. Wilson.—Case and exceptions settled as amended and filed.

Mary E. Bagley vs. Bagley.—Judgment of divorce for adultery granted.

Simonds vs. Dipper.—The injunction must be continued until the case can be heard on the merits.

Ryer vs. Woodward and Others.—New trial granted. The jury were justified in finding that a portion of the property attached belonged to the plaintiff, but the evidence tending to support the claim that the defendants, creditors of the former owner, had directed the officer to attach the goods was not sufficient.

COURT OF APPEALS CALENDAR.

ALBANY, Jan. 30, 1874.

The following is the Court of Appeals day calendar for February 2:—Nos. 82, 94, 95, 86, 93, 90, 96, 99.

UNITED STATES SUPREME COURT.

WASHINGTON, Jan. 30, 1874.

The original case of Florida vs. Anderson and others, involving the title to a great amount of railroad property in Florida, was to-day argued before the Supreme Court, the State maintaining her right to a restoration of her bonds issued to the Jacksonville, Pensacola and Mobile Railroad, consolidated with many others in exchange for bonds issued by that road, alleging that the interest has not been paid and that, under the act authorizing the aid to the road, the Governor is entitled to take possession, but that he is prevented from so doing by the United States Marshal, who holds it subject to a decree of the Circuit Court and proposes to sell it in satisfaction. The defendants contend that the interests of the State were represented in the suit in the Circuit Court by her Board of Trustees of Internal Improvement, and that she cannot therefore maintain the present action. The State asks an order restraining the sale under that decree, averring that it will defeat her claims to the fund, alleging fraud and collusion. The case involves many millions of dollars and is very complicated in respect to the interests represented. H. R. Jackson appears for the defendants and W. W. McFarland for the State.

RAPID TRANSIT.

Relief in Sixty Days by Surface Roads.

TO THE EDITOR OF THE HERALD:—

The most sensible remarks about rapid transit which I have seen in the columns of your paper appeared this morning. The communication was from a lady advocate of the underground plan, and it contained a timely allusion to the fact that rapid transit has ceased to be a problem—that it is merely a question of money. Given the right of way, time and funds, any engineer of average ability can design and execute a useful and enduring work under ground which shall extend from the centre of Brooklyn to the centre of Yonkers. The tunnel, except those portions under the rivers, could be made nearly as free to sunlight and very much more agreeable to olfactory nerves than the Park avenue tunnel. Candidly, the engineer would encounter many very serious obstructions, but no obstacle. It would require a clear brain and some staying power, ample time and a well filled purse. It could be finished within ten years at an average cost of $6,750,000 per mile. Such a work would leave a favorable impression upon the mind of Mr. Macaulay's New Zealander if he happened to come this way, and I think he will come; for the fame of that stupendous engineering feat in Greenwich street has gone abroad.

The following temporary accommodation could be made available within sixty days:—Let the proper authorities issue an order forbidding the present traffic on the roadways of Second and Tenth avenues between the hours of five and seven o'clock A. M. and five and seven P. M. Put down four tracks of Bessemer steel rails on each avenue, and on each track a train of thirty large cars drawn by two powerful locomotive engines, one at either end, with cow catcher outward. Eighteen hundred passengers could be comfortably seated in each train. The cars nearest to the curbstones to stop every mile, the others to run all the way through. During the day engines and cars to remain idle at Houston and Twelfth streets; during the night at the north end of the island. The trains to be run under a full head of steam, with the throttle wide open. Many a fool would lose his life in attempting to cross the tracks, but that should not inconvenience us in the least; it would be a clear gain to the rest of the inhabitants.

If I am not rapidly losing two of my five senses the railway companies under the roof of the Grand Central depot, at Forty-second street, own sufficient "strong" "old style" rolling stock to equip four avenues. JAMES L. VERPLANK, C. E.

NEW YORK, Jan. 28, 1874.

A Cheap Plan, with Fast Cars, for Each Avenue.

TO THE EDITOR OF THE HERALD:—

As the subject of rapid transit seems to be yet unsolved I will suggest a plan, which to me is new, perfectly feasible, at nominal cost, available in winter as well as summer, and also to the present generation in particular. The plan is to place both the tracks close together, like those of an ordinary steam road, in the middle of the avenue, and enclose them in an ornamental structure of wood or iron, with continuous windows from a bottom line, level with those in the cars, and also overhead if desired. This will leave the cars as light as day, and thus allow the engineer and conductor to see passengers as well as now, and those on the street to see the car as well. The structure to be entirely open at the cross streets. There being no snow on the track between the crossings, a small plough on each tenth or twelfth car would keep those entirely clear, or the snow could be removed with very little manual labor.

It may be urged that there will be danger at the crossings. No more so than now, if as much, because the victim would have to plant himself squarely on the track. It may be said, too, that it will obstruct the street. This is not so, for it would force each vehicle to keep to its own side, thereby avoiding blockades, which would only occur at crossings; and, with my car (which I will hereafter explain), a considerable time may be allowed between cars and still make double the number of trips now made, as there would be no obstructions between.

The car above alluded to has been thoroughly and practically tested, both on the Northampton and the Williamsburg street railroads, where there is a grade of about 500 feet to the mile, and also on the Flushing and North Side Railroad, where it received the highest praise. Then, you will ask, why was it not brought into general use? For the simple reason that those engaged in it with me had not the energy to fight that bugbear, "it will frighten horses," when in reality it is the poor timid man that becomes frightened, and for fear that the horse would also, he strenuously objects to the new car, as of yore, when railroads first started. The above car is now at College Point, L. I., and is a common horse car, with a small boiler on the outer end of each platform, sheathed and painted the same as the car body, and provided with a throttle valve, reverse lever and brake on each platform, where the engineer stands, with unobstructed view, like the present driver, thereby avoiding turntables. The engineer is underneath, with water tanks under the seats, which enables the car to accommodate the same number of passengers, with free ingress and egress at both ends, as without the machinery. I have frequently (with a full load of passengers) brought it to a dead stop within twenty feet, when going at a speed of twenty miles per hour, and it is sufficiently powerful to draw four or five other cars on any of the avenues. The ash pans are also enclosed, so that no fire is dropped on the street. If all above the bottom of the car windows be constructed of iron and glass the view across would be ample. The windows may also be so constructed as to be let down during the summer season in like manner to those of the car. I believe, from experience, that with the above arrangement the trip from Chatham street to Yorkville can easily be made, with all stops, in twenty minutes. Then, again, each avenue may have its rapid transit, and thus avoid crosstown travel to reach the car. This is by far the cheapest and quickest method that could be adopted. L. W. LANGDON.

NORTHAMPTON, Mass., Jan. 25, 1874.

A Belt Six-Track Road Along Each River Front, with Wharves and Warehouses.

TO THE EDITOR OF THE HERALD:—

I propose a system of docks, warehouses and belt railroad on each river front and into Westchester county. First, construct a railroad of say six tracks, commencing on the east side, say at the foot of Wall street, on the bulkheads of piers, according to the following plan:—To widen South street to 80 or 100 feet; then on line of same construct piers, placed in the water and built in accordance with a novel system of coffer dams; these piers to be sixty feet apart in a longitudinal direction, built of solid granite rock, and to the heighth of eighteen feet above the surface of the street. It is proposed to have the same constructed for six tracks, viz.:—Two for way travel, two for through travel and two for freight. The roadway to be built upon and supported by heavy iron beams of an entirely new design, thus spanning the entrances to the docks and warehouses. The whole surface between said beams to be filled or arched with an indestructible material, so as to deaden the noise of passing trains, as well as to strengthen the structure and obscure it from view. A wall of the same material to be constructed on each outside of tracks, which will prevent the wheels from leaving the tracks, and also the passing trains from frightening horses.

Construct this road along the entire water front of the city, and as soon as the demands of travel require. It can be completed in much less time than any other proposed plan, and, if proper facilities can be had, it can be constructed within one year. The building of the road should entertained. The dock building and warehouses can be erected as trade may demand. The construction of the railroad or placing of the piers will not in any way interfere with the loading or unloading of vessels, nor affect any private interest. Not so with any other proposition, particularly those which would undermine or tunnel the streets, thus interfering with gas pipes, sewers, water mains, undermining buildings, and also the objections property holders make to the fact that when the road would be finished the constant jar of passing trains would work injuriously to the foundation and walls of their buildings. All these and many other very serious objections heretofore advanced by property holders against the "arcade project," the "underground" and all others, would be entirely disposed of, and the railroad constructed according to the above design would forever be distinct and apart from the ordinary business and traffic of the streets.

The idea entertained by the writer is to secure a grant or charter from the Legislature to the city of New York; a commission, appointed and named in the bill, of five competent gentlemen, one to be a first class engineer; this commission to be perpetual and appointed hereafter, as may be deemed most prudent; no legislation to be had in the future in relation to the carrying out of the original design, until the bonds issued to construct the road were liquidated, a provision or clause being made in the charter and a condition between the city and the bondholders that no legislation affecting the original bill and its provisions is to be had until the design shall be fully carried into effect, thereby preventing future schemes of plunder; the city of New York to be empowered to borrow money and issue bonds known as "Railroad and Dock Building bonds," and to be liquidated as the proceeds for rent of docks and earnings of railroad would accrue, and when said system was completed and paid for the fare to be reduced to rates which would pay for operating and conducting the road, thus rendering it the "people's project."

In conclusion, I will add that I will construct a roadway for six tracks, located on the bulkheads of river fronts, and according to design set forth, for less than $1,500,000 per mile on this side the Harlem River and for a much less sum in Westchester county. The above sum will equip the road.

Most respectfully, your obedient servant,

JAMES O'FRIEL,

Contractor and Constructing Engineer, No. 71 Broadway.

NEW YORK, Jan. 29, 1874.

Too Many Schemes—Let the City Build the Road and Add Billions to Her Wealth.

TO THE EDITOR OF THE HERALD:—

The columns of your paper during the past few days, since you opened them to the discussion of the rapid transit question, have furnished a very complete abridged history of what has taken place before the Legislature on that subject during the last ten years. Each of your correspondents has furnished his plan of a railroad; has adduced the arguments which to his mind proved it to be the best plan, if not the only plan, upon which a city railroad could profitably be built. All this, increased many fold, is what has been going on in the Legislature, not for ten years only, but twice that period. Ever since 1852, when John Schuyler introduced the first bill for rapid transit in the city of New York, the Legislature has not ceased to be overwhelmed at every session with multitudinous schemes and plans for the accomplishment of that most desirable object. They increased in number and their advocates and projectors increased in importunity, until, in the session of 1872, no less than thirty-two bills on that subject were before the Legislature at one time. And the advocates of each were prepared to show at any moment, in long addresses and with manifold pictures and diagrams, that their own particular plan was the only one that combined every merit, while everybody else's was utterly impracticable and worthless. Is it to be wondered at that the Legislature, confused and bewildered by these discordant counsels, or wearied by the pertinacity of these "private enterprise" schemes, took refuge in a general bill ignoring them all, or else in passing such wonderments as the "travelling sidewalk," the "pneumatic tube" or the Greenwich street unipede? Yet, in fact, some very good charters have been passed—very about a dozen in all; but, though twenty years have elapsed, have we got any railroad? We have lost 1,000,000 of the population which we should have had; we are sacrificing annually more than $15,000,000 of tax revenues, which should now belong to us, more than we are getting; and can any man say we are any nearer a solution of the question as to plans than we were twenty years ago? Worse than this: we have a city filled with distress of every kind; one-half of our population packed in tenement houses seven stories deep, the constant menace of the peace and safety of the other half; and yet our chief city officers can find no other remedy than to appropriate $15,000,000 to build jails and poorhouses to meet the crimes and poverty of which these crowded tenements are the one prolific source. I think after this long and dear experience we may settle down to two or three safe conclusions:—

First—We shall never have and we never ought to have a railroad till the city itself builds and owns it. For a railroad to be of any real service to the people must furnish transit at the lowest possible rate—a rate that shall barely cover the interest on its cost. Cheap transit and twenty per cent dividends upon thrice watered stock are wholly incompatible terms.

Second—Plans and routes of the road should be left, not to those who draft bills, who usually have but little knowledge of engineering, but to a competent board of engineers, who, when the city shall determine to build the road, will be called upon to survey the ground and determine upon the best plan and the best route.

Third—To be run cheaply at low rates of fare it must be built economically. To this end the Eight Hour law, at least in its application to this work, should be repealed.

Such a bill—a bill which will never add $1 to the taxes of the people, which will in ten years add $1,000,000,000 to our present taxable property, which will confer an inestimable boon of happiness upon our whole people, will soon claim the attention of the Legislature.

If the press will give it that support which it deserves our greatest sources of distress will soon be removed, and New York will enter upon a new epoch of prosperity unknown in her past history.

S. E. CHURCH.

Wife murder and husband suicide are getting quite common in California. In San Francisco, on the 19th inst., Rudolph Mitchell cut the throat of his wife, Annie Mitchell, with a razor, and then drew the edge of the same instrument across his own throat. Both died instantly. At Santa Barbara, on the 18th, W. W. Shedd inflicted fifty stabs with a case knife upon his wife, and then cut two holes in his throat and sent three bullets through his heart. They were both found dead in the house by neighbors, who had been alarmed by their three children.